

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the inner film and outer film not connected near both sides of end edges at the lateral seal portion (claim 21) must be shown or the feature canceled from the claim(s). No new matter should be entered. Fig. 7 clearly illustrates the end surface seal portions (12, 13) connecting the inner film to the outer film near both sides of end edges at the lateral seal portion (30).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The disclosure is objected to because of the following informalities: the written specification uses inconsistent terminology regarding the seal portion at the end edges of the tubular shape. On page 15, the seal portion is set forth as end surface seal portions 12 and 13. On page 26, as amended on 01/29/2009 and incorrectly indicated as being on "page 28", the seal portion is set forth as "lateral seal 30 portion".

Appropriate correction is required.

3. The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 4, 13, 14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,524,460 to Twiehoff et al. and U.S. Patent No. 4,233,367 to Ticknor et al.

Twiehoff et al. discloses a multiple bag comprising a multiple film, wherein the multiple film is obtained by producing a tubular film by a blowing process forming the tubular film in a flat shape so as to form a two-ply film having an inner film and an outer film. See column 1, lines 61-68 and Fig. 7. The multiple film has end edges orthogonal to the tubular film and side edges orthogonal to the end edges. See Fig. 5. The multiple film is bent in a tubular shape such that side edges of said multiple film are overlapped and connected at a back lining seal portion by longitudinal weld seams. See Figs. 5-7. The inner film of one of the side edges is connected to the outer film other side edge near to both of the side edges thereof at the back lining seal portion by longitudinal weld seams. See Fig. 7. Twiehoff et al. further discloses that the longitudinal weld seams may be passed through all four layers of the overlapping side edges. See column 3, lines 62-65. The multiple bag of Twiehoff et al. includes lateral seal portions welding a portion of the multiple film near both sides of end edges in which the inner film and the outer film are not connected. See Fig. 5.

However, Twiehoff et al. does not disclose the tubular film forming the multiple film being a tubular co-extrusion inflation film having a polyolefin layer on both sides of an un-oriented polyamide core. Ticknor et al. teaches that it is known in the art to form packaging from a tubular co-extrusion inflation film having a polyolefin layer on both

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sides of a nylon (i.e. polyamide) core. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to form the multiple bag of Twiehoff et al. using the tubular co-extrusion inflation film having a polyolefin layer on both sides of a nylon core of Ticknor et al., in order to provide a package with strength characteristics, oxygen impermeability and the ability to provide moisture protection and heat sealing with a lower temperature.

It is noted that absent any disclosure in Ticknor et al. of stretching or orienting the nylon core of the tubular co-extrusion inflation film, the nylon core of Ticknor et al. meets the recitation “un-oriented polyamide core”.

### ***Response to Arguments***

6. Applicant's arguments filed 01/22/2010 have been fully considered but they are not persuasive.

Applicant remarks that there is no illustration of teaching of Fig. 7 in Twiehoff et al. of the welds passing through the four layers. However, Twiehoff et al. explicitly discloses “The longitudinally extending weld seams **19, 20** may be passed through all four layers of the overlapping marginal zones...” See column 3, lines 62-65. Therefore, the recitation “said inner and said outer film being connected to each other near to both said side edges thereof at said back lining seal portion” is met by Twiehoff et al.

Applicant further remarks that Twiehoff et al. does not disclose the claimed lateral seal portions. Twiehoff et al. clearly discloses a tubular film that has been flattened and further bent into a tubular shape such that the side edges of the flattened

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tubular film are overlapped and connected to define a bag having an inner film and an outer film. See column 4, lines 11-31. Twiehoff et al. clearly discloses in claim 1 and illustrates in Fig. 5 that the bag has lateral seal portions (i.e., a top weld seam and a bottom weld seam each extending transversely across the tubular shape). Fig. 5 further shows the lateral seal portions being spaced apart from the end edges of the tubular shape and intersecting the back lining seal portion (i.e., the longitudinal weld seams). Figs. 6 and 7 of Twiehoff et al. clearly illustrate portions of both sides edges of the tubular shape in which the inner film and outer are not connected except along the back lining seal portion (i.e., the longitudinal weld seams). Therefore, the recitation "a lateral seal portion welding a portion of said multiple film near both sides of end edges in which the inner film and the outer film are not connected" is met by Twiehoff et al.

In response to applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In this case, Ticknor et al. teaches that it is known in the art to form packaging from a tubular co-extrusion inflation film having a polyolefin layer on both sides of a nylon (i.e. polyamide) core, in order to provide a package with strength characteristics, oxygen impermeability and the ability to provide moisture protection and heat sealing with a lower temperature. The Examiner maintains that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to form the

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multiple bag of Twiehoff et al. using the tubular co-extrusion inflation film having a polyolefin layer on both sides of a nylon core of Ticknor et al., since the multiple bag of Twiehoff et al. is formed from a tubular film produced on blown film extruders.

In response to applicant's argument that "The Office action fails to disclose why one would combine a coextruded will [sic] such as that of the '367 reference with the bag having recited geometry of the '460 reference to obtain the profoundly different geometry of the claimed bag", the test for obviousness is not whether the features of one reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the combination of references makes obvious to one of ordinary skill in the pertinent art. As discussed above, Ticknor et al. teaches that it is known in the art to form packaging from a tubular co-extrusion inflation film having a polyolefin layer on both sides of a nylon (i.e. polyamide) core and Twiehoff et al. discloses a multiple bag formed from a tubular film produced on blown film extruders.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also **specifically point out the support for any amendments** made to the disclosure. See MPEP 714.02 and MPEP 2163.06. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jes F. Pascua/  
Primary Examiner, Art Unit 3782